

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 30, 2009

Charles R. Fulbruge III
Clerk

No. 09-40106
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PELAYO HERNANDEZ-GARCIA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
No. 7:08-CR-1392-ALL

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Pelayo Hernandez-Garcia has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Hernandez-Garcia has filed a response. Our independent review of the record, counsel's brief, and Hernandez-Garcia's response discloses no nonfrivolous issue for appeal. Accordingly, counsel's motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the appeal is DISMISSED. *See* 5TH CIR. R. 42.2.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.